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NOTICE OF ALLOWANCE AND FEE(S) DUE

25570 7590 09/07/2010

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 09/07/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,924

03/28/2005

Carsten Hermansen

742113-33

1913

TITLE OF INVENTION: DEVICE AND METHOD FOR THROUGH-CUTTING OF AN EXTRUDED ICE MASS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	12/07/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

25570 7590 09/07/2010

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,924 03/28/2005 Carsten Hermansen 742113-33 1913

TITLE OF INVENTION: DEVICE AND METHOD FOR THROUGH-CUTTING OF AN EXTRUDED ICE MASS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional NO \$1510 \$300 \$0 \$1810 12/07/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
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DEXTER, CLARK F 3724 083-023000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 09/07/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 196 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 196 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/523,924

Examiner

Clark F. Dexter

Applicant(s)

HERMANSEN ET AL.

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on June 10, 2010.
2. ☒ The allowed claim(s) is/are 1-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. David Safran on August 23, 2010.

2. The application has been amended as follows:

In the Claims

Claims 1-7 have been rewritten as follows:

-- 1. (Currently Amended) A device for producing individual ice cream product pieces by through-cutting of an extruded ice cream mass, comprising an ice cream extruder having a nozzle out of which the ice cream mass is extruded, and a cutting means located immediately after the nozzle for cutting up the extruded ice cream mass into said product pieces which fall down on a receiving device for further processing, wherein the cutting means comprises:
a first knife, which is reciprocally arranged in a transverse, first plane immediately after the outlet of the nozzle and arranged to perform a first transverse stroke with a first stroke length,

a second knife which is reciprocally arranged in a second plane which is parallel to the first plane, the second plane being arranged immediately below the first plane with respect to the flow direction out of the nozzle, the second knife cooperating with the first knife for through-cutting the extruded ice cream mass and being arranged to perform a second transverse stroke with a second stroke length which is smaller than the first stroke length of the first knife, and

means for simultaneous reciprocation of the first knife and the second knife.

2. (Currently Amended) A device according to claim 1, comprising means for control of the movements of the knives, so that the first knife is guided in the first transverse stroke, which consists in a complete through-cutting of the ice mass, and that the second knife, in a simultaneous movement, is guided partly through the ice mass in said second transverse stroke of which the direction of movement is opposite the direction of movement of the first transverse stroke.

3. (Currently Amended) A device according to claim 1, in which the second stroke length of the second knife is half of the first stroke length of the first knife.

4. (Currently Amended) A device according to claim 2, in which the first knife and the second knife are arranged on parallel guides of a frame of the means for control of the movements of the knives with opposing inactive positions of the knives

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arranged on each side of a path extending from the nozzle for the ice cream mass which is extruded from the nozzle.

5. (Currently Amended) A device according to claim 4, in which the means for siimultaneous reciprocation comprises the first and the second knives ~~[[knife]]~~ being eccentrically connected to rotor means which, by coupling means, is ~~[[are]]~~ attached to rotating drive means, whereby a rotational movement from the drive means is transferred to the rotor means and is transformed into the respective transverse strokes ~~a translational movement~~ of the knives.

6. (Currently Amended) A device according to claim 5, wherein the coupling means comprises a pneumatic or electric activatable coupling, and the drive means activates the coupling means for performing a through-cutting in dependency of the flow velocity of the ice mass out of the nozzle.

7. (Currently Amended) A method for through-cutting of an extruded ice cream mass which is extruded out of a nozzle, comprising the steps of:

using a cutting means which is located immediately after the nozzle to cut up the extruded ice cream mass into product pieces which fall down on a receiving device for further processing,

moving ~~guiding~~ a first knife of the cutting means in a transverse first stroke in a transverse first plane immediately after the outlet of the nozzle, and

moving simultaneously guiding a second knife of the cutting means in a transverse second stroke in a plane which is parallel to the first plane and which is arranged immediately below the first knife with respect to the flow direction out of the nozzle, the first and second knives moving simultaneously, [[and]]

in which the first and second knives cooperate with one another for through-cutting the extruded mass,

in which the first knife cuts completely through the ice cream mass during said first stroke, and

in which the second knife cuts partly through the ice cream mass during said second stroke in which the direction of movement is opposite the direction of movement of the first stroke.--.

Claims 10-11 have been rewritten as follows:

-- 10. (Currently Amended) A method according to claim 9, in which the simultaneous, oppositely directed transverse strokes of the first and the second knives ~~[[knife]]~~ are activated by engaging rotor means to which the knives are eccentrically connected, whereby a rotational movement from a drive means is transferred to the rotor means and is transformed into the respective transverse strokes ~~a translational movement~~ of the knives.

11. (Currently Amended) A method according to claim 10, in which the first knife and the second knife of the cutting means are connected to the drive means by a

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coupling means, wherein the coupling means comprises a pneumatically activatable coupling which is activatable by ~~and wherein~~ a control means ~~is provided~~ which comprises an electric and/or pneumatic control for activating the coupling for performing a through-cutting in dependency of the flow velocity of the ice mass out of the nozzle.--.

Claims 13-14 have been rewritten as follows:

-- 13. (Currently Amended) A method according to claim 12, in which the simultaneous, oppositely directed transverse strokes of the first and the second knives ~~[[knife]]~~ are activated by engaging rotor means to which the knives are eccentrically connected, whereby a rotational movement from a drive means is transferred to the rotor means and is transformed into the respective transverse strokes ~~a translational movement~~ of the knives.

14. (Currently Amended) A method according to claim 7, in which the simultaneous, oppositely directed transverse strokes of the first and the second knives ~~[[knife]]~~ are activated by engaging rotor means to which the knives are eccentrically connected, whereby a rotational movement from a drive means is transferred to the rotor means and is transformed into the respective transverse strokes ~~a translational movement~~ of the knives.--.

In the Specification

In the Substitute Specification filed on June 10, 2010:

The first paragraph on page 2 has been rewritten as follows:

--However this through-cutting implies that the cut-off portion of ice cream is influenced by a laterally oriented motional impulse with the effect that the portion does not necessarily fall ~~[[falls]]~~ onto the underlying conveyer. This makes the further handling of the ice cream portions difficult as they are delivered on the underlying conveyer in a disordered and unpredictable pattern. This has shown to be a hindrance in conjunction with automation of the production of such ice cream products.--.

The fourth paragraph on page 3 has been rewritten as follows:

--The first and the second knives are, in the preferred embodiment, arranged on ~~[[in]]~~ parallel guides of ~~[[in]]~~ a frame in the means of control with opposing inactive positions arranged on each side of a path of the ice mass which is extruded from the nozzle. Hereby, a construction of the device is provided which is plain and mechanically simple and also easily is retrofitted on existing equipment as a replacement for other types of cutting devices.--.

Page 4, line 3, "pneumatical" has been changed to --pneumatic--;
 line 20, "which shows" has been changed to --shows--.

Page 5, line 2, "and planes" has been changed to --planes--.

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The paragraph bridging pages 5-6 has been rewritten as follows:

--The first knife and the second knife are, in the preferred embodiment, arranged in parallel guides on ~~[[in]]~~ a frame 9 of ~~[[in]]~~ the means of control with opposing inactive positions arranged on each side of the ice mass 2 which is extruded from the nozzle 1.

As shown in Fig. 3, there may, in connection with the nozzle 1, be means for insertion of an ice cream lolly stick 8 in the ice mass 2, e.g., through an opening 13 in the nozzle 1 immediately before the outlet (see, Figs. 4 and 5).--.

Page 6, line 3, "knife" has been changed to --knives--.

The third paragraph on page 6 has been rewritten as follows:

-- In Figure 4, the device in a preferred embodiment is shown in perspective. As it appears from figure 4, the cutting device 3 is arranged below the nozzle 1. As it appears from Fig. 4, the upper knife 4 and the lower knife 5 are slidably arranged on side guides of ~~[[in]]~~ the frame 9. Below~~[[,]]~~ is arranged the conveyer T onto which ~~is arranged~~ the cut-off products are received and transported onward for further processing. As it is seen, the nozzle 1 is equipped with a slot 13 through which an ice cream lolly stick can be hacked into the ice cream in the nozzle immediately before the outlet. This mounting of an ice cream lolly stick in the ice cream is naturally synchronized with the flow velocity F and the frequency of the through- cutting by the device 3, so that it is ensured that an ice cream lolly stick 8 is mounted in each cut-off ice product 6.--.

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The fourth paragraph on page 6 has been rewritten as follows:

-- In Fig. 5, [[is]] the device 3 for through-shearing the extruded ice mass 2 is shown in perspective, as seen from below. As it appears from this figure, the upper knife 4 can be provided with a V-shaped knife-edge 4' and the lower knife 5 is provided with a straight knife-edge 5'--.

Page 6, last line, "then knives" has been changed to --the knives--.

Page 7, line 11, "embodiment" has been changed to --an embodiment--.

Additional Prior Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose features similar to those of the claimed invention but do not teach or suggest the claimed invention.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance:

Regarding the rejections under 35 USC 112 (and the corresponding drawing objections), applicant's arguments, particularly those provided in the "Statement In Support Or Request For Pre-Appeal Brief Review" filed on October 1, 2009 are considered to be persuasive and thus the outstanding rejections (and objections) have been withdrawn.

Further, the prior art of record, either taken alone or in combination, does not fairly teach or suggest the claimed invention. For example, the prior art does not teach or suggest the combination of an ice cream extruder having a nozzle out of which the ice cream mass is extruded, and a cutting means located immediately after the nozzle for cutting up the extruded ice cream mass, particularly a cutting means having the features of claim 1. Similarly, the prior art does not teach or suggest the corresponding method set forth in claim 7, particularly the claimed movement of the knives with respect to the claimed ice cream mass.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
August 23, 2010